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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DEC 21 1993

FCC - MAIL ROOM

In the Matter of

Rochester Telephone Corporation
800 Data Base Query Tariff

Tariff FCC No. 1

Transmittal No. 213
CC Docket No. 93-129

RESPONSE TO REPLY TO PETITION TO
REJECT OR SUSPEND

The Empire Association of Long Distance Telephone Companies, Inc. (Empire/ALTEL) hereby responds to the "Reply to Petition to Reject or Suspend" submitted by Rochester Telephone Corporation on or about December 16, 1993. For the reasons set forth herein, the Rochester pleading should be rejected and the 800 Data Base Query Tariff proposed by Rochester should be rejected or suspended.

Rochester defends its rates - which are approximately 50% greater than those charged by New York Telephone for the same service - on the ground it is merely passing through the charges billed to it (Rochester) by Ameritech, its third party provider. Rochester goes on to argue that this Commission's mandate that it provide 800 Data Base Query service simply means "the manner in which it chooses to do so is within Rochester's discretion".

Rochester misreads its obligations under this

Commission's Orders and the Communications Act. Under the mandates of Sections 201 and 202, any service offered must be just, reasonable and non-discriminatory. A service based upon inflated or unnecessary costs simply will not meet that test.

Simply because a utility incurs costs does not mean it is entitled to recover such costs in its rates. Instead, a utility's costs must themselves be just and reasonable, with the burden of proving their reasonableness resting squarely on the utility (Communications Act, §204).

Contrary to Rochester's belief, it is not free to pay whatever it wants to an outside service provider, and expect to recover all its costs in rates. 800 Data Base Query service is a monopoly offering,¹ and as such Rochester has a statutory duty to base its rates only on costs properly and reasonably incurred.

Empire/ALTEL is not demanding that Rochester provide service only in a manner which "Empire deems suitable" (Rochester Reply, p. 2). All that Empire/ALTEL asks is that Rochester provide the 800 Data Base Query service mandated by the Commission's Orders at just and reasonable rates, based upon necessary and reasonable costs.

Rochester attempts to deflect Empire/ALTEL's protest by accusing it of failing to offer proof that Rochester could have

¹ Provision of access for 800 service, CC Docket 86-10, Notice of Proposed Rulemaking 102 FCC 2d 1387 (1986). See also, 3 FCC Rcd. 721 (1988); 4 FCC Rcd. 2824 (1989); 6 FCC Rcd. 5421 (1991); 7 FCC Rcd. 8616 (1992); 8 FCC Rcd. 907 (1993); 8 FCC Rcd. 1038 (1993); 8 FCC Rcd. 1423 (1993); Order, DA 93-294 (March 11, 1993); Order, DA 93-491 (April 28, 1993).

charged a lower rate had it used a geographically closer SCP. Significantly, however, while Rochester claims it would still incur transport costs if it used another service provider, it fails to set forth the costs its would in fact incur by using those other providers. Similarly, Rochester fails to demonstrate that the total cost to Rochester's customers, including the underlying query charge and the transport cost, would indeed be greater if Rochester used a different service provider. Knowledge of those alternate costs and rates, of course, resides exclusively with Rochester.

Next, whether the additional charge of \$0.00053 per query is denoted an "administrative" cost or a "direct capital cost" is a distinction without a different. While Rochester suggests this additional charge is designed to recover port common and port interface capital costs, it has not provided cost detail to demonstrate its claim. Nor, for that matter, has it indicated what other services it might be providing through the same "port common and port interface" facilities, and whether it has properly allocated costs between 800 Data Base Query service and some other as yet unidentified services.

Finally, in light of the questionable nature of the charges proposed by Rochester, the question must be asked as to whether there are any other business arrangements in effect between Rochester and Ameritech which would cause Rochester to be so cavalier over the costs it is attempting to inflict upon its monopoly customers.

Accordingly, Rochester's 800 Data Base Query Tariff
should be rejected or suspended, and subjected to a full
investigation.

Respectfully submitted,

Empire Association of Long
Distance Telephone
Companies, Inc.

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